

STATE OF NEW HAMPSHIRE  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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In the Matter of:	:
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MICHAEL D. KELLER, WILFRED F. BISSON,	:
JAMES G. SMART, et al.	:
Petitioners:	:
	:
and	:
	:
UNIVERSITY SYSTEM OF NEW HAMPSHIRE,	:
KEENE STATE COLLEGE	:
Employer:	CASE NO. <u>U-0603</u>
	:
and	:
	:
KEENE STATE COLLEGE EDUCATION ASSOCIATION	:
Affiliated with NHEA/NEA	:
	:
Certified Representative:	DECISION NO. <u>780018</u>
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BACKGROUND

In May, 1976, following many hours of testimony and after review of oral and written briefs, PELRB determined the bargaining unit for the University System of New Hampshire at Durham, Plymouth and Keene State College as, "All full-time faculty, librarians and department chairmen" and excluded the staff of Wheelock School and Lecturers at the colleges.

Rehearing upon motion from Attorney Silas Little on behalf of the University System was held in July of 1976 and additional information was submitted both orally and written. PELRB reaffirmed its original decision in August, 1976.

In University System of New Hampshire v. State of New Hampshire, et al., (Case Nos. 7579 and 7580, February 18, 1977) the Supreme Court of New Hampshire sustained PELRB's decision on full time faculty, librarians and department chairmen and remanded the Wheelock School to the Board. In March, 1977 after reviewing the Wheelock matter, PELRB again reaffirmed its decision to exclude the Wheelock faculty members.

Issue of the lecturers has yet to be heard by the Supreme Court of New Hampshire and at the pre-election conference, it was agreed that lecturers would be allowed to vote under challenge and ballots kept sealed until a decision was handed by the Supreme Court.

Election on the Keene Campus (as well as Durham and Plymouth) was held on April 26 and 27, 1977 with the following Keene results:

Keene State College Chapter, AAUP	18 votes
Keene State College Chapter Education Association, Affiliated with NHEA/NEA	34 votes
Keene State Faculty Federation, Affiliated with AFT	15 votes
No Representative	55 votes

for a total of 122 eligible votes cast. Out of a possible 25 challenged voters, 20 votes were cast and ballots sealed.

No choice received a majority of the votes properly cast and a run-off election between the two options was ordered by the Board and held on October 20, 1977 resulting in the certification of the Keene State College Education Association, Affiliated with NHEA/NEA, by a vote of 62 to 60 with only one (1) challenged vote cast.

On February 20, 1978, the University System indicated to the Chairman of the Labor Board, Edward J. Haseltine, a desire to proceed with negotiations with the certified representative for the faculty and formal certification was issued by PELRB on February 23, 1978, effective October 20, 1977, date of the run-off election.

On March 22, 1978, PELRB received a petition from a group of faculty members of Keene State College supported by eighty-one (81) individual signature cards requesting an immediate decertification election be held for the faculty. The basis for the petition being RSA 273-A:10, I(a) which indicates that "at least thirty percent of the employees in the bargaining unit (must) assert that the employee organization which has been certified by the Board is no longer the representative of the majority of the employees in the bargaining unit."

The petitioners, by brief, contended that more than the required thirty percent of the employees in the bargaining unit no longer wanted to be represented by the Keene State College Education Association and further that PELRB should investigate such petition to determine whether or not grounds existed for conducting an election.

#### FINDINGS

1. RSA 273-A is silent in the matter under these circumstances but speaks directly in RSA 273-A:10 VI to the validity of certification as exclusive representative. Provisions for decertification is found in RSA 273-A:10, VI(b).

The petitioners do not meet the test under section 10, VI(b).

2. RSA 273-A:11, "Rights Accompanying Certification" conveys to the Keene State College Education Association the right to represent the bargaining unit without challenge under specified circumstances and is specific as to when a challenge can take place.
3. There is apparent intent by both parties to enter into negotiations for the purpose of arriving at a collective bargaining agreement and this process should be allowed to continue without challenge for a period of one year from the date of the run-off election.

BOARD ORDER

The petition filed by Michael D. Keller, Wilfred F. Bisson, James G. Smart, et. al for the conduct of a decertification election is hereby denied.



EDWARD J. HASELTINE, CHAIRMAN  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

By unanimous vote of the Board. Present and voting, Chairman Edward J. Haseltine, Board Members, Richard H. Cummings, Edward L. Allman and James C. Anderson. Also present, Board Clerk, Evelyn C. LeBrun, and Counsel, Bradford Cook.

Absent and not voting on University matters, Board Member Joseph B. Moriarty who did not participate in any discussion or vote on this case.

Signed this 9th day of May, 1978